

INDIVIDUAL MOTION PRACTICE AND RULES OF  
**JUDGE JOSEPH F. BIANCO**  
United States District Court  
Eastern District of New York

100 Federal Plaza  
Central Islip, NY 11722

Chambers: 631-712-5670  
Fax: 631-712-5677  
Courtroom Deputy: Michele Savona  
Telephone: 631-712-5676

Unless otherwise ordered in a specific case, matters before the Court shall be conducted in accordance with the following practices:

**I. COMMUNICATIONS WITH CHAMBERS**

**A. Docketing, Scheduling, or Calendar Matters**

For these matters, **call Courtroom Deputy Michele Dasaro-Savona at 631-712-5676**. To request an adjournment or extension of time, see *infra* Part I.E.

**B. Letters**

Except as provided below, communications with Chambers shall be by letter electronically filed with the Court, see *infra* Part II, ECF, with copies simultaneously delivered to all counsel and a courtesy copy delivered to Chambers.

Copies of correspondence between counsel shall not be sent to the Court.

**C. Telephone Calls**

Telephone calls to Chambers are permitted. As noted above, however, for docketing, scheduling, or calendar matters, **call Courtroom Deputy Michelle Dasaro-Savona**.

**D. Faxes**

Faxes to Chambers are permitted only if copies are simultaneously faxed or delivered to all counsel and electronically filed with the Court. No document longer than ten pages may be faxed without prior authorization. **Do not follow with hard copy.**

**E. Requests for Adjournments or Extensions of Time**

All requests for adjournments or extensions of time must be in writing and state (1) the original date, (2) the number of previous requests for adjournment or extension, (3) whether those previous requests were granted or denied, and (4) whether the adversary consents, and, if not, the reasons given by the adversary for refusing to consent. If the requested adjournment or extension affects any other scheduled date, a proposed revised date must be provided. If the request is for an adjournment of a court appearance, absent an emergency, it shall be made at least forty-eight hours prior to the scheduled appearance.

**II. ELECTRONIC CASE FILING (“ECF”)**

- A. All documents in civil actions shall be filed electronically. Orders will be posted electronically, and parties not registered on ECF will not receive them.
- B. For questions regarding ECF, please call 718-613-2571. For technical ECF assistance, call 631-712-6080. Attorneys should also refer to the Court’s website at: [http://www.nyed.uscourts.gov/CM\\_ECF/cm\\_ecf.html](http://www.nyed.uscourts.gov/CM_ECF/cm_ecf.html).
- C. Hard copies of all papers filed electronically, including motions, letters, and stipulations, must be provided to Chambers. All such papers must be clearly marked “Courtesy Copy” and indicate that the original was filed by ECF.
- D. Parties filing voluminous or nontext exhibits that are impracticable to file electronically should contact Chambers prior to filing.
- E. Pro se parties are automatically exempt from mandatory electronic filing. Parties represented by counsel, however, must file documents electronically, even in pro se cases. For questions about filing and serving documents in cases where one or more parties are proceeding pro se, contact the pro se office at 718-613-2665.

**III. MOTIONS**

**A. Pre-Motion Conferences**

For discovery motions, follow Local Civil Rules 37.3 and 6.4.

In all cases where the parties are represented by counsel, **a pre-motion conference with the Court must be requested** before making any motion pursuant to Federal Rule of Civil Procedure (“FRCP”) 12 or 56, any motion for a change of venue, or any motion to amend a pleading pursuant to FRCP 15 where leave of the Court is required.

To request a pre-motion conference, the moving party shall submit a letter not to exceed three pages in length setting forth the basis for the anticipated motion. All

parties so served may, but are not required to, serve and file a letter response, not to exceed three pages, within five days from service of the notification letter. Service of the letter by the moving party within the time requirements of FRCP 12 shall constitute timely service of a motion made pursuant to FRCP 12(b).

Note that these provisions do **not** apply to motions other than those specifically enumerated. For example, discovery motions, habeas corpus/prisoner petitions, social security appeals, and bankruptcy appeals do not require a pre-motion conference. Similarly, motions pursuant to FRCP 50, 59, and 60, do not require a pre-motion conference, and counsel should be aware that the Court of Appeals will not accept an argument that compliance with district court motion rules should excuse non-compliance with Federal Rule of Appellate Procedure Rule 4.

**B. Courtesy Copies**

Courtesy copies of all pleadings and motion papers, marked as such, shall be submitted to Chambers. (See also supra Part II, ECF.)

**C. Memoranda of Law**

Unless prior permission has been granted, memoranda of law in support of and in opposition to motions are limited to twenty-five pages, and reply memoranda are limited to ten pages. Memoranda of ten pages or more shall contain a table of contents and authorities.

**D. Filing of Motion Papers**

**No motion papers shall be filed until the motion has been fully briefed.** The original moving party must electronically file with the Clerk's office and provide courtesy copies to Chambers of the notice(s) of motion and all motion papers (including the moving and non-moving party's papers) together on the filing date provided in the scheduling order. Such party is further obligated to electronically file and provide a courtesy copy of a cover letter specifying each document in the package.

Parties shall exchange electronic PDF copies of their motion papers in accordance with the briefing schedule. A copy of the cover letters or e-mails forwarding the PDF copies shall be simultaneously submitted to Chambers.

**E. Briefing Schedule**

A briefing schedule will be established by the Court at the pre-motion conference, or if no conference is required (such as a habeas corpus petition), in a scheduling order issued by the Court. No changes in the briefing schedule may be made without permission from the Court.

**F. Oral Argument**

Where the parties are represented by counsel, oral argument on motions will ordinarily be heard. The date and time for oral argument will be designated at the pre-motion conference or, if no conference is required, in a scheduling order issued by the Court.

**G. Magistrate Appeals and Objections to Magistrate Reports and Recommendations**

**Timing.** In accordance with FRCP 72, all appeals and objections must be served upon all parties and filed with the Court within ten days of service of the challenged order or report. The party or parties opposing the appeal or objections shall file their opposition within ten days of service. A reply, if any, shall be filed within five days of service of the opposition.

**Content.** All appeals and objections must set forth in detail those specific aspects of the order or report that are being challenged. The appeal or objection must also provide a copy of the actual order or report being challenged. The Court will not consider appeals or objections where a copy of the actual order or report being challenged is not provided.

**IV. PRETRIAL PROCEDURES**

**A. Joint Pretrial Orders in Civil Cases**

Unless the Court has set a briefing schedule for a summary judgment motion, or unless otherwise ordered by the Court, within sixty days from the date for the completion of discovery in a civil case, the parties shall electronically file and provide courtesy copies to the Court for its approval a joint pretrial order, which shall include the following:

1. The full caption of the action.
2. The names, addresses (including firm names), and telephone and fax numbers of trial counsel.
3. A brief statement by plaintiff as to the basis of subject matter jurisdiction, and a brief statement by each other party as to the presence or absence of subject matter jurisdiction. Such statements shall include citations to all statutes relied on and relevant facts as to citizenship and jurisdictional amount.
4. A brief summary by each party of the claims and defenses that party has asserted which remain to be tried, without recital of evidentiary matters, but including citations to all statutes relied on. Such summaries shall

identify all claims and defenses previously asserted which are not to be tried.

5. A statement by each party as to whether the case is to be tried with or without a jury, and the number of trial days needed.
6. A statement as to whether all parties have consented to trial of the case by a magistrate judge (without identifying which parties have or have not so consented).
7. Any stipulations or agreed statements of fact or law that have been agreed to by all parties.
8. A list by each party of witnesses (fact and expert) whose testimony is to be offered in its case in chief, indicating whether such witnesses will testify in person or by deposition. Only listed witnesses will be permitted to testify except when prompt notice has been given and good cause shown.
9. A designation by each party of deposition testimony to be offered in its case in chief, with any cross-designations and objections by any other party.
10.
  - (a) A statement of stipulated facts, if any;
  - (b) A schedule listing exhibits to be offered in evidence and, if not admitted by stipulation, the party or parties that will be offering them. The schedule will also include possible impeachment documents and/or exhibits, as well as exhibits that will be offered only on rebuttal. The parties will list and briefly describe the basis for any objections that they have to the admissibility of any exhibits to be offered by any other party. Only exhibits listed will be received in evidence except for good cause shown; and
  - (c) All exhibits must be pre-marked for the trial and exchanged with the other parties at least ten days before trial. Where exhibits are voluminous, they should be placed in binders with tabs.
11. In cases where a substantive motion (such as a motion for summary judgment) has been submitted to the Court, the pre-trial order shall be due within sixty days after the date of the decision issued by the Court, unless otherwise directed by the Court.

**B. Filings Prior to Trial in Civil Cases**

1. **One Week Prior to Jury Trial**

- (a) **Legal Memoranda.** Counsel for each party shall electronically file and provide courtesy copies to the Court legal memoranda addressing all contested legal issues and anticipated evidentiary problems.
- (b) **Voir Dire Requests.** Counsel for each party shall electronically file and provide courtesy copies to the Court any voir dire requests that pertain specifically to the case at issue. Routine voir dire requests are not required.
- (c) **Requests to Charge.** Each party shall electronically file and provide courtesy copies to the Court written requests to charge the jury. When feasible, the proposed jury charges should also be submitted to Chambers on a 3.5" diskette in WordPerfect format.

2. **One Week Prior to Non-jury Trial**

- (a) Each party shall electronically file and provide courtesy copies to the Court of the proposed exhibits in a suitable binder. Please refer to Part II. D for instructions on filing voluminous or nontext exhibits.
- (b) Each party shall electronically file and provide courtesy copies to the Court of proposed findings of fact and conclusions of law, not to exceed fifteen pages without the express approval of the Court.
- (c) Each party shall electronically file and provide courtesy copies to the Court a legal memorandum addressing all contested legal issues.